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EX30 I

Yn gwneud hawliad? - Ambell gwestiwn i chi ofyn
i chi'ch hun.

Yn gwneud hawliad?

Ambell gwestiwn i chi ofyn i chi'ch hun

Mae'r daflen hon yn awgrymu ambell gwestiwn y dylech ofyn i chi'ch hun cyn gwneud hawliad (a elwir yn 'cychwyn hawliad') mewn llys sirol. Bydd yr atebion i'r cwestiynau'n help i chi benderfynu a fydd hi'n werth i chi fynd i'r llys ai peidio.

Oes rhaid i mi wneud hawliad? Oes yna unrhyw opsiynau eraill heblaw'r llys?

Tan yn ddiweddar, os oedd gennych chi broblem gyfreithiol, byddech yn fwy na thebyg wedi mynd i lys neu dribiwnlys ar gyfer yr hyn a elwir yn aml yn 'ymgyfreitha'. Er bod hon yn parhau i fod yn ffordd gyffredin o ddatrys problemau o'r fath, mae pobl yn aml yn teimlo bod mynd i lys yn broses ddud sydd hefyd yn gallu achosi straen.

Erbyn heddiw, mae nifer o ffyrdd eraill o ddatrys cwynion a phroblemau cyfreithiol, gan gynnwys camau fel cyflafareddu, cyfryngu a chynlluniau ombwdsmyd. Gelwir y rhain yn aml yn gynlluniau 'dull amgen o ddatrys anghydfod'.

Mae rheolau'r llys yn gofyn eich bod yn ystyried a fyddai dull amgen o ddatrys anghydfod yn ffordd well o daro cytundeb cyn mynd i'r llys. Os ydych chi'n gwrthod ystyried hyn, mae'n bosib na chewch eich costau'n ôl, neu gall y llys orchymyn eich bod yn talu costau'r parti arall, hyd yn oed os ydych chi'n ennill yr achos.

Fe allai hi fod yn fuddiol i chi ddarllen y daflen wybodaeth 23, Alternatives to Court, a gyhoeddir gan y Gwasanaeth Cyfreithiol Cymunedol, gan fod hon yn esbonio'r cynlluniau hyn yn fwy manwl, sut maen nhw'n gweithio a phryd y cewch chi eu defnyddio. Gallwch gael copi o'r daflen yn rhad ac am ddim gan www.legalservices.gov.uk neu gallwch ei gweld ar y rhyngwyd yn www.clsdirect.org.uk

Pam ddylwn i ddefnyddio dull amgen o ddatrys anghydfod yn lle mynd i lys?

Nid nod cynlluniau amgen yw disodli llysoedd. Ond fe allent fod yn fwy manteisiol na mynd i lys. Mae'r manteision yn cynnwys:

- bod yn fwy hyblyg;
- datrys eich problem yn gynt;
- bod yn llai o straen; a
- chostio llai o arian i chi.

Os oes gennych chi broblem reolaidd â rhywun (cymydog, er enghraifft) neu sefydliad yr ydych yn delio â nhw, gallai proses amgen megis cyfryngu esgor ar ateb gwell a thymor-hwy i'ch problem.

Gallwch gael rhagor o wybodaeth am gyfryngu drwy gysylltu â Llinell Gymorth Cyfryngu Cenedlaethol ar 0845 60 30 809 neu drwy ymweld â'r wefan www.nationalmediationhelpline.com

Sut ydw i'n penderfynu pryd i ddefnyddio dull amgen o ddatrys anghydfod?

Mae sut y byddwch yn penderfynu datrys eich problem yn dibynnu ar:

- y canlyniad rydych chi eisiau ei gael;
- yr hyn y gallwch ddisgwyl ei gael;
- sut rydych chi eisiau mynd ati i ddatrys eich problem; a
- pha mor barod yw'r parti arall i geisio datrys y broblem.

Trwy fynd i'r llys, fe allech chi gael:

- gorchymyn fod rhywbeth yn cael ei wneud neu ei atal;
- iawndal; neu

- ddyfarniad gan y llys am bwy sy'n iawn a phwy sydd ddim.

Trwy ddefnyddio dull amgen o ddatrys anghydfod, fe allech chi gael:

- cytundeb ynglŷn â dyled
- newid yn y ffordd y mae person neu sefydliad yn ymddwyn;
- addewid na fydd person neu gwmni yn gwneud rhywbeth;
- cael rhywbeth sy'n eiddo i chi wedi ei drwsio;
- cael rhywbeth newydd yn lle rhywbeth sy'n eiddo i chi;
- ymddiheuriad;
- esboniad o'r hyn a ddigwyddodd i chi;
- camgymeriad a gywirwyd; neu
- iawndal (er enghraifft, am anaf).

Ar ôl darllen taflen wybodaeth 23 gan y Gwasanaeth Cyfreithiol Cymunedol (gweler uchod), os ydych chi'n credu y byddai'n well i'ch achos gael ei drin mewn llys, darllenwch ymlaen.

Pam mynd i'r llys?

Os na allwch chi setlo'ch anghydfod drwy unrhyw ddull arall, efallai y penderfynwch chi gychwyn hawliad drwy'r llys sirol. Os oes gennych fynediad at y rhyngrwyd, gallwch ymweld â www.moneyclaim.gov.uk am ffordd syml, gyfleus a diogel o wneud hawliad. Cewch gychwyn hawliad am amrywiaeth o resymau, gan gynnwys:

- bod ar rywun arian i chi
- gwaith o safon isel;
- difrod i eiddo;
- damweiniau ar y ffordd;

- anaf personol;
- nwyddau heb eu cyflenwi; a
- nwyddau diffygiol.

Mae'r llysoedd sirol yn ymdrin â phob un o'r mathau hyn o hawliad. Weithiau, fe glywch chi bobl yn sôn am y 'llys hawliadau bychain'. Yr hyn maen nhw'n sôn amdano mewn gwirionedd yw'r drefn arbennig a ddefnyddir i ymdrin â hawliadau llai mewn llys sirol.

Cynlluniwyd y drefn ar gyfer trin hawliadau llai yn y 'trac hawliadau bychain' i fod yn gyflym, yn rhad ac yn hawdd ei defnyddio. Ond dim ond ar gyfer hawliadau am £5,000 neu lai (neu £1,000 neu lai os yw'r hawliad am anaf personol neu ddiffyg atgyweirio tai) y gellir defnyddio'r drefn hon wrth hawlio gan unigolyn, ffyrm neu gwmni yng Nghymru neu Loegr. Mae gan Lysoedd yr Alban eu trefn gyfreithiol eu hunain.

Gan amlaf, ymdrinnir â hawliadau am dros £5,000 yn y 'trac cyflym' neu'r drefn 'amldrac'.

Mae taflenni sy'n esbonio mwy am ddyrannu hawliadau i'r trac hawliadau bychain, y trac cyflym a'r amldrac, a sut y cânt eu trin, ar gael yn rhad ac am ddim o unrhyw swyddfa llys sirol neu ar ein gwefan www.gwasanaeth-llysoeddem.gov.uk

Os ydw i'n penderfynu mynd i lys, ddylwn i geisio setlo'r hawliad?

Er y gallech chi ddewis mynd i lys yn hytrach na defnyddio dull amgen o ddatrys anghydfod (gweler uchod), cychwyn hawliad ddylai'r opsiwn olaf fod, bob tro. Bydd y llys yn disgwyl i chi fod wedi gweithredu'n rhesymol, megis cyfnewid gwybodaeth a dogfennau perthnasol am yr anghydfod ac ymdrechu'n gyffredinol i osgoi'r angen am wneud hawliad. Er enghraifft, os oes ar rywun arian i chi, gallech chi ysgrifennu llythyr at y sawl sydd mewn dyled. Dywedwch faint sydd arnyn nhw i chi ac am beth, a pha gamau rydych wedi'u cymryd eisoes i gael

yr arian yn ôl. Dylech gynnwys rhybudd y byddwch chi'n cychwyn hawliad yn y llys sirol oni bai eu bod nhw'n talu'r ddyled erbyn y dyddiad a nodwch chi. Weithiau, bydd y rhybudd hwn yn ddigon i'w hannog i dalu heb i chi orfod mynd i'r llys. Cadwch gopi o'ch llythyr ac unrhyw ateb.

Dyma enghraifft o'r math o lythyr y gallech ei anfon.

2 Gerddi'r Gwanwyn
Unrhywdref
AO6 3BX

11 Ebrill 2005

Annwyl Mr Gwyn,

Fe ddaethoch i drwsio fy mwyler gwres canolog ar 6 Ionawr. Fe ffoniais i chi ar 7 Ionawr ac unwaith eto ar 10 Ionawr i ddweud nad oedd yn dal i weithio'n iawn.

Fe addawsoch y byddech yn galw i'w drwsio ond ddaethoch chi ddim. Bu'n rhaid i mi gael rhywun arall i alw i'w drwsio ar 26 January ac fe gostiodd hynny £157 +TAW i mi

Gofynnais i chi dalu'r arian ar 2 Chwefror am mai chi ddylai fod wedi gwneud y gwaith hwn.

Dydych chi ddim wedi talu'r arian i mi.

Os na wnewch chi dalu'r arian i mi erbyn 19 Ebrill 2005, bwriadaf gychwyn hawliad llys sirol yn eich erbyn.

Yr eiddoch yn gywir

Mrs O Gwyllt

Beth ydy'r protocolau cyn-gweithredu?

Mae nifer o anghydfodau, gan gynnwys anaf personol, clefyd neu salwch, esgeulustod proffesiynol, diffyg atgyweirio cyflwr tai, difenwi neu adeiladwaith a pheirianeg, lle ceir rheolau llys sy'n dweud wrthyich pa gamau y dylech eu cymryd cyn cychwyn hawliad.

Gelwir y rhain yn 'brotocolau cyn-gweithredu'.
Gallwch gael mwy o wybodaeth am y protocolau hyn
ar wefan yr Adran Materion Cyfansoddiadol www.dca.gov.uk/civil/procrules_fin/menus/protocol.htm.

Ydw i'n debygol o gael fy arian?

Mae'n bwysig ystyried a yw'r unigolyn, y ffyrm neu'r cwmni rydych chi'n hawlio arian ganddynt yn debygol o allu talu. Os ydyn nhw'n:

- ddi-waith;
- yn fethdalwyr; neu
- os nad oes ganddyn nhw arian eu hunain;
- os nad oes ganddyn nhw eiddo personol na dim byd arall o werth sy'n eiddo iddyn nhw (megis car) nad yw ar log neu dan gytundeb hur bwrcas neu les
- os ydyn nhw wedi rhoi'r gorau i fasnachu; neu
- os oes ganddyn nhw ddyledion eraill i'w talu,

efallai na fydd y llys yn gallu'ch helpu chi i gael eich arian. Fodd bynnag, mae'n bosibl y gallech gael eich arian petaech chi'n fodlon derbyn taliadau bach fesul tipyn dros gyfnod o amser.

Os yw'r unigolyn neu'r cwmni'n fethdalwr, go brin y cewch chi'ch arian. Gallwch gysylltu gyda'r Gwasanaeth Methdaliad (Insolvency Service) yn 21 Bloomsbury Street, Llundain WC1B 3SS (ffôn 020 7637 1110). Bydd rhaid i chi ddweud wrthyn nhw beth yw enw llawn yr unigolyn neu'r cwmni a'u cyfeiriad diwethaf. Byddan nhw'n dweud wrthyh chi a yw'r unigolyn yn fethdalwr, neu a yw'r cwmni yn wynebu 'datodiad gorfodol', sef bod y cwmni wedi rhoi'r gorau i fasnachu ac felly'n annhebygol o fod ag arian neu asedau eraill.

Os yw'r sawl rydych chi'n hawlio arian ganddo/i eisoes wedi'i d/ddwyn i'r llys eisoes gan bobl eraill, ond heb dalu, go brin y cewch chithau eich arian 'chwaith.

Gallwch gael gwybod a oes gan unigolyn, ffyrn neu gwmni mewn cyfeiriad penodol unrhyw orchmynion llys sirol sydd heb eu talu (gelwir y rhain yn 'ddyfarniadau'), drwy ysgrifennu at Registry Trust Ltd, yn 173 – 175 Cleveland Street, Llundain, W1T 6QR (ffôn: 020 7380 0133) neu drwy ymweld â www.registry-trust.org.uk. Bydd yn rhaid i chi dalu ffi i chwilio am bob enw y mae gennych ddiddordeb ynddo.

Eir ati i chwilio drwy'r Gofrestr Dyfarniadau, Gorchmynion a Dirwyon ar eich rhan. Cewch wybod beth yw canlyniad y chwiliad.

Cofiwch, hyd yn oed os byddwch chi'n ennill yr achos, nad ydy'r llys yn gwarantu y byddwch chi'n gallu cael yr arian sy'n ddyledus i chi.

Alla'i fforddio mynd i'r llys?

Fel arfer, bydd rhaid i chi dalu ffi i gychwyn eich hawliad. Bydd lefel y ffi'n dibynnu ar y swm rydych chi'n ei hawlio. Os nad yw'r diffynnydd yn talu ar ôl i chi gael dyfarniad, neu os yw'n dweud nad oes arno arian i chi a bod eich hawliad yn mynd yn ei flaen fel achos 'a amddiffynnir' (a wrthwynebir), efallai y bydd rhaid i chi dalu rhagor o ffioedd. Os byddwch chi'n ennill eich achos, bydd y ffioedd hyn yn cael eu hychwanegu at y swm sy'n ddyledus i chi gan y diffynnydd. Efallai hefyd y caniateir rhywfaint o gostau i chi i wneud iawn am golli amser o'r gwaith. Ond ni fydd hyn o reidrwydd yn ddigon i wneud iawn am yr holl arian a gollwyd.

Dan rai amgylchiadau arbennig, er enghraifft, os ydych chi'n derbyn cymhorthdal incwm, efallai y gallwch ofyn am gael eich esemptio rhag talu ffioedd. Gofynnwch mewn unrhyw lys sirol am gopi am ddim o'r Daflen Ffioedd sy'n rhoi mwy o wybodaeth i chi.

Pa gostau eraill sydd?

Os yw'r person rydych chi'n ei siwio (y 'diffynnydd') yn amddiffyn eich hawliad, efallai y bydd angen i chi gael tystion i ddweud wrth y llys beth ddigwyddodd. Efallai y bydd rhaid i chi dalu eu costau nhw, sef, eu costau teithio i'r llys ac adref a'r arian y bydden nhw wedi'i ennill y diwrnod hwnnw, ond, os enillwch chi, mae'n bosibl y bydd y llys yn dweud wrth y diffynnydd am gyfrannu tuag at y costau hynny.

Efallai hefyd y bydd angen i chi gael adroddiad gan arbenigwr, er enghraifft, meddyg, mecanig neu syrfêwr. Efallai hefyd y bydd angen i chi ofyn i'r arbenigwr hwn ddod i wrandawriad yn y llys i roi tystiolaeth ar eich rhan. Bydd rhaid i chi dalu costau a ffioedd yr arbenigwyr. Ond, os enillwch chi, mae'n bosibl y bydd y llys yn dweud wrth y diffynnydd am gyfrannu tuag at y costau hyn.

Os ydych chi'n hawlio swm penodol o arian, ac os mai unigolyn yw'r diffynnydd sy'n amddiffyn eich hawliad, fe allai eich hawliad gael ei drosglwyddo i lys lleol y diffynnydd. Gallai hyn olygu bod rhaid i chi deithio cryn dipyn i unrhyw wrandawriad a gynhelir. Ond, os enillwch chi'r achos, mae'n bosibl y byddwch chi'n gallu hawlio'ch costau teithio a rhywfaint tuag at golli cyflog y diwrnod hwnnw.

Os nad Saesneg neu Gymraeg yw eich iaith gyntaf, a bod angen cyfieithydd arnoch, ni fydd y llys yn gallu'ch helpu chi i ddod o hyd i un. Bydd rhaid i chi wneud hyn drosoch chi'ch hun a hefyd, bydd rhaid i chi dalu unrhyw ffioedd a godir gan y cyfieithydd.

Os oes gennych dwnnai a'ch bod yn hawlio llai na £5,000, fel arfer bydd rhaid i chi dalu am ei help ef/hi eich hun, hyd yn oed os enillwch chi eich achos.

Gorfodi Dyfarniad. Dylech hefyd gofio, er y gall y llys wneud dyfarniad o'ch plaid (mae hyn yn golygu gorchymyn i'r diffynnydd dalu i chi), **ni fydd** y llys yn cymryd camau fel mater o drefn i sicrhau bod yr arian yn cael ei dalu i chi. Os nad yw'r diffynnydd yn talu, bydd rhaid i chi ofyn i'r llys gymryd camau (a elwir yn 'orfodi eich dyfarniad'), ac mae'n bosibl y bydd rhaid i chi dalu ffi arall am hyn.

Ceir gwybodaeth am orfodaeth mewn cyfres o daflenni y gallwch eu cael o unrhyw lys sirol, neu trwy ymweld â www.gwasanaeth-llysoeddem.gov.uk

Alla'i fforddio'r amser?

Mae llawer o achosion yn rhai nad oes neb yn eu hamddiffyn ac fe luniwyd y drefn hawlio arian (yn enwedig symiau o £5,000 neu lai) er mwyn i chi allu gwneud hyn drosodd chi'ch hun, heb ymddangos yn y llys o gwbl neu ddim ond unwaith ar y mwyaf. Ond cofiwch, os bydd rhywun yn amddiffyn eich hawliad, y bydd angen i chi dreulio amser yn paratoi eich achos. Er enghraifft, bydd rhaid i chi baratoi copïau o'r holl ddogfennau perthnasol neu dreulio amser yn casglu datganiadau gan dystion. Mae'n debyg y bydd gofyn i chi fynd i wrandawriad llys, a hyd yn oed os enillwch yr achos, fe allech chi orfod treulio mwy o amser yn llenwi ffurflenni i orfodi eich dyfarniad.

Fydd angen twrnai arna'i?

Gan amlaf, os ydych chi'n hawlio mwy na £5,000 ac yn enwedig os yw hynny'n cynnwys hawliad am iawndal, mae'n beth doeth ceisio cyngor twrnai. Mewn achos o ddyled syml, er enghraifft, mae'n bosibl na fyddwch chi'n meddwl bod angen ymgynghori â thwrnai.

Hefyd, os yw'r swm rydych chi'n ei hawlio'n £5,000 neu'n llai a bod y diffynnydd yn ei amddiffyn, gallwch fynd â rhywun i'r gwrandawriad llys i siarad ar eich rhan. Gelwir y person hwn yn 'gynrychiolydd lleyg', ac fe all fod yn gymar, yn berthynas, yn ffrind neu'n weithiwr cynghori.

Mae mathau eraill o hawliadau, er enghraifft, hawliadau am anaf personol, yn gallu bod yn fwy cymhleth, ac efallai y byddai'n ddoethach cael rhywfaint o gymorth a chyngor proffesiynol, beth bynnag y bo gwerth eich hawliad.

Cofiwch hefyd bod rhaid i chi brofi eich hawliad. Er mwyn gwneud hyn, bydd gofyn i chi fod â rhywfaint o ddealltwriaeth o sail gyfreithiol eich hawliad a threfniadau'r llys a chyflwyno tystiolaeth, er enghraifft, adroddiad gan feddyg, neu ddatganiadau gan dystion a welodd eich damwain. Hefyd, bydd angen i chi wneud asesiad realistig o faint o iawndal rydych chi'n ei geisio. Fe all arbed amser ac arian i chi ofyn gyntaf i dwrnai neu weithiwr cynghori a yw hi'n werth i chi wneud hawliad ac, os ydyw, sut fyddai'r ffordd orau o baratoi'r hawliad hwnnw, pa dystiolaeth sydd ei hangen arnoch chi a faint o iawndal y dylech chi ofyn amdano.

Os ydych chi'n hawlio ar ran cwmni cyfyngedig, mae'n bosibl y bydd angen i chi gael twrnai i fynd i'r gwrandawriad ar eich rhan. Bydd hyn yn dibynnu ar faint o arian rydych chi'n ei hawlio a pha fath o wrandawriad a gynhelir.

Cychwyn hawliad ar-lein

Os yw gwerth eich hawliad yn llai na £100,000 a bod yr hawliad yn erbyn un neu ddau berson a dim mwy na hynny, gallwch gychwyn eich hawliad ar-lein. Ewch i www.moneyclaim.gov.uk i gael rhagor o wybodaeth.

Rhagor o gymorth a chyngor

Mae taflenni eraill ar gael yn y gyfres hon i'ch helpu os penderfynwch chi gychwyn hawliad. Fodd bynnag, dim ond syniad cyffredinol am beth sy'n debygol o ddigwydd sydd yn y taflenni hyn. Does dim modd iddyn nhw esbonio popeth am reolau'r llys, y costau a'r trefniadaethau a all effeithio ar wahanol fathau o hawliad mewn gwahanol ffyrdd.

Gall staff y llys eich cyngkori ynghylch trefniadaethau'r llys, rhoi'r ffurflenni sydd eu hangen arnoch i chi a'ch helpu chi i'w llenwi. **Ond allan nhw ddim rhoi cyngor cyfreithiol i chi.** Er enghraifft, allan nhw ddim dweud wrthyh chi a yw eich hawliad yn un da ai peidio neu gan bwy y dylech chi fod yn hawlio. Mae'n bosibl y gallwch chi gael cyngor cyfreithiol am ddim gan ganolfan gyfraith. Mae'n bosibl hefyd y bydd Canolfan Cyngor Ar Bopeth neu ganolfan cyngor i ddefnyddwyr yn gallu'ch helpu. Byddan nhw hefyd yn gallu dweud wrthyh a oes gennych chi'r hawl i gael cymorth cyfreithiol.

Os penderfynwch chi fwrw ymlaen a chychwyn hawliad, darllenwch y daflen **EX302 - Sut i wneud hawliad.** Mae copïau ar gael o unrhyw lys sirol, neu o'n gwefan www.gwasanaeth-llysoeddem.gov.uk. Mae cyfeiriad a rhif ffôn eich llys sirol lleol yn y llyfr ffôn dan '**Courts**' neu maent ar gael ar ein gwefan.

Pa gymorth ychwanegol sydd ar gael i ddefnyddwyr y llys sydd ag anabledd?

Os oes gennych anabledd sy'n golygu bod mynd i'r llys neu gyfathrebu'n anodd, cysylltwch â Swyddog Gwasanaeth Cwsmeriaid y llys perthnasol. Efallai y bydd yn gallu'ch helpu. Os na all Swyddog Gwasanaeth Cwsmeriaid y llys eich helpu, fe allwch gysylltu â'r Llinell Gymorth Anabledd ar 0800 358 3506 rhwng 9am a 5pm o ddydd Llun i ddydd Gwener. Gallwch ffonio'r rhif hwn am ddim. Os ydych yn fyddar neu'n drwm eich clyw, gallwch ddefnyddio'r gwasanaeth Minicom ar 0800 212 368.



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EX30 I

Making a claim? - Some questions to ask yourself

Making a claim?

Some questions to ask yourself.

This leaflet suggests some questions you ought to ask yourself before making a claim (called 'issuing a claim') in a county court. The answers to the questions will help you decide if going to court is going to be worthwhile for you.

Do I have to make a claim? Are there any alternatives to court?

Until recently, if you had a legal problem, you would normally have gone to a court or tribunal in what is often called 'litigation'. While this is still a common way of sorting out such problems, individuals often find that going to court is expensive and can be stressful.

There are now a number of other ways of sorting out complaints and legal problems, including things like arbitration, mediation and ombudsmen schemes. These are often called 'alternative dispute resolution' (ADR) schemes.

Court rules require you to think about whether alternative dispute resolution is a better way to reach an agreement before going to court. If you refuse to consider this, you may not get your costs back, or the court may order you to pay the other party's costs, even if you win the case.

You may find it helpful to read information leaflet 23 Alternatives to court, published by the Community Legal Service, which explains these schemes in more detail, how they work and when you can use them. A copy of the leaflet can be obtained free from www.legalservices.gov.uk or viewed on the Internet at www.clsdirect.org.uk

Why should I use an alternative dispute resolution scheme instead of going to court?

Alternative schemes are not meant to replace the courts. But they can have advantages over going to court. The advantages include:

- being more flexible;
- solving your problem faster;
- being less stressful; and
- costing you less money.

If you have a problem with a person regularly (a neighbour for example) or organisation you deal with, an alternative process such as mediation could mean a better, longer-lasting solution to your problem.

You can find out more about mediation by contacting the National Mediation Helpline on 0845 60 30 809 or by visiting the website www.nationalmediationhelpline.com

How do I decide whether to use an alternative dispute resolution scheme?

How you choose to solve your problem depends on:

- the result you want;
- what you can expect to achieve;
- how you want to go about solving your problem; and
- how willing the other party is to try and solve the problem.

By going to court, you might get:

- an order that something be done or stopped;
- compensation; or
- a judgment from the court about who is right and who is wrong.

By using alternative dispute resolution, you might get:

- an agreement over a debt
- a change in the way a person or organisation behaves;
- a promise that a person or company won't do something;
- getting something you own fixed;
- getting something you own replaced;
- an apology;
- an explanation for what happened to you;
- a mistake corrected; or
- compensation (for example, for an injury).

If having read information leaflet 23 from the Community Legal Service (see above), you think that your case would be better dealt with by a court, read on.

Why go to court?

If you are unable to settle your dispute any other way, you may decide to issue a claim through the county court. If you have access to the internet you can visit www.moneyclaim.gov.uk for a simple, convenient and secure way of making a claim. You can issue claims for a variety of reasons, including:

- someone owing you money;
- bad workmanship;
- damage to property;
- road traffic accidents;
- personal injury;
- goods not supplied; and
- faulty goods.

County courts deal with all these types of claim. You will sometimes hear people talk about the ‘small claims court’. What they really mean is the special procedure for handling smaller claims in a county court.

The system for handling smaller claims in the ‘small claims track’, is designed to be quick, cheap and easy to use. But it will usually only apply to claims for £5,000 or less (or £1,000 or less if the claim is for personal injury or housing disrepair), against a person, firm or company in England and Wales. Courts in Scotland have their own legal system.

Claims of more than £5,000 are generally dealt with differently in either the ‘fast track’ or the ‘multi-track’.

Leaflets which explain more about the allocation of claims to the small claims track, the fast track and the multi-track and how they are handled, are available free from any county court office or from our website www.hmcourts-service.gov.uk

If I decide to go to court, should I still try to settle the claim?

Even though you might choose to go to court rather than use an alternative dispute resolution process (see above), issuing a claim should always be your last resort. The court will expect you to have acted reasonably, such as by exchanging information and relevant documents about the dispute and to generally try to avoid the need for making a claim. For example, if you are owed money, you could write a letter to the person who owes it. Say how much they owe and what it is for, and what steps you have already taken to recover the money. Include a warning that you will issue a county court claim if they do not pay by the date you give. Sometimes this warning will encourage them to pay and you will not have to go to court. Keep a copy of your letter and any reply.

This is an example of the sort of letter you might send.

2 Spring Gardens
Anytown
AO6 3BX

11 April 2005

Dear Mr Green,

You came to repair my central heating boiler on 6 January. I rang you on 7 January and again on 10 January to tell you it was still not working properly.

You promised to call and put it right but did not. I had to get someone else to come and repair it on 26 January which cost £157 + VAT.

I asked you on 2 February to pay this money because it was work you should have done.

You have not paid it.

If you do not pay me the money by 19 April 2005, I will issue a county court claim against you.

Yours sincerely

Mrs V Cross

What are pre-action protocols?

There are a number of disputes including personal injury, disease or illness, professional negligence, housing disrepair, defamation or construction and engineering, where court rules tell you about what steps you should take before you issue a claim.

These are called 'pre-action protocols'. You can find out more about these protocols on the Department for Constitutional Affairs website www.dca.gov.uk/civil/procrules_fin/menus/protocol.htm.

Will I get my money?

It is important to consider whether the person, firm or company you are claiming from is likely to be able to pay. If they are:

- unemployed;
- bankrupt;
- have no money of their own;
- have no personal property and have nothing else of value belonging to them (such as a car) which is not hired or subject to a hire purchase or lease agreement;
- have ceased to trade; or
- have other debts to pay,

the court may not be able to help you get your money. However, you may be able to get your money if you are prepared to accept small instalments over a period of time.

If the person or company is bankrupt, you will probably not get your money. You can contact the Insolvency Service at 21 Bloomsbury Street, London WC1B 3SS (telephone: 020 7637 1110). You need to tell them the full name of the person or company and their last address. They will tell you if the person is bankrupt, or if the company is in 'compulsory liquidation', which means that the company has stopped trading and probably has neither money nor other assets.

If the person you are claiming from has already been taken to court by others, and has not paid, you may also have little chance of getting your money. You can find out if a person, firm or company at a particular address has any unpaid court orders (called 'judgments'), by writing to Registry Trust Ltd, at 173 - 175 Cleveland Street, London W1T 6QR (telephone: 020 7380 0133) or by visiting www.registry-trust.org.uk. You will have to pay a fee to search for each name you are interested in.

A search of the Register of Judgments, Orders and Fines will be made for you. You will be told the result of the search.

Remember, even if you win your case, the court does not guarantee that you will be able to get the money you are owed.

Can I afford to go to court?

You will usually need to pay a fee to start your claim. The level of the fee will depend on the amount you are claiming. If the defendant does not pay once you have judgment, or says the money is not owed and your claim proceeds as a 'defended' (disputed) case, you may have to pay further fees. If you win your case, the fees may be added to the amount the defendant owes you. You may also be allowed some costs to compensate you for time lost at work. But this will not necessarily cover the total amount you have lost.

In certain circumstances, for example, if you are receiving income support, you may be able to ask for an exemption from paying fees. Ask at any county court for a free copy of the Fees Leaflet, which will give you more information.

What other expenses are there?

If the person you are suing (the 'defendant') defends your claim, you may need witnesses to help tell the court what happened. You may have to pay their costs, that is, their travelling expenses to and from the court and the money they would have earned that day; although, if you win, the court may tell the defendant to pay towards those expenses.

You may also need to obtain a report from an expert, for example, a doctor, mechanic or surveyor. You may also need to ask this expert to come to a court hearing to give evidence on your behalf. You will have to pay experts' expenses and charges. But, if you win, the court may tell the defendant to pay towards these.

If your claim is for a fixed amount of money (a 'specified amount'), and the defendant is an individual who defends your claim, your claim may be transferred to the defendant's local court. This may mean you having to travel some distance for any hearing which takes place. But, if you win the case, you may be able to claim your travel costs and something towards your lost earnings for that day.

If English is not your first language and you need an interpreter, the court will not be able to help you find one. You will have to do this yourself and also have to pay any fees the interpreter charges.

If you have a solicitor and your claim is for less than £5,000, you will usually have to pay for his or her help yourself, even if you win your case.

Enforcing a judgment You should also bear in mind that although the court may make a judgment in your favour (this means ordering the defendant to pay you), the court **will not** automatically take steps to make sure that the money is paid. If the defendant does not pay, you will need to ask the court to take action (called 'enforcing your judgment'), for which you may have to pay another fee.

Information about enforcement is available in a series of leaflets which you can get from any county court, or by visiting www.hmcourts-service.gov.uk

Can I afford the time?

Many cases are not defended and the way in which claims for money (especially amounts of £5,000 or less) are dealt with is designed to allow you to do this yourself, with no, or only one, attendance at court. But bear in mind that if your claim is defended you will need to take time to prepare your case. For example, you will have to put together copies of all relevant documents or spend time getting statements from witnesses. You will probably be required to go to a court hearing and, even if you win the case, you may have to spend more time completing forms to enforce your judgment.

Will I need a solicitor?

As a general rule, if your claim is for a sum over £5,000 and particularly if it includes a claim for compensation ('damages'), it is advisable to seek the advice of a solicitor. In a simple case for debt, for example, you may not consider it necessary to consult a solicitor.

Also, if the amount you are claiming is £5,000 or less and is defended, you may take someone to the court hearing to speak on your behalf. This person is called a 'lay representative' and may be a spouse, relative, friend or an advice worker.

Other types of claims, for example, personal injury claims, can be more complicated and it may be preferable to get some professional help and advice no matter what the value of your claim is.

Remember that you also have to prove your claim. To do this you will need to have some understanding of legal basis for your claim and court procedures and provide evidence, for example, a report from a doctor, or statements from witnesses who saw your accident. You will also need to make a realistic assessment of the amount of damages you are seeking. It may save you time and money to first ask

a solicitor or advice worker if it is worth your making a claim and, if it is, how best to prepare it, what evidence you need and what amount of damages to ask for.

If you are claiming on behalf of a limited company you may need a solicitor to go to the hearing for you. This will depend on how much money you are claiming and the type of hearing.

Issuing a claim online

If the value of your claim is less than £100,000 and the claim is against not more than two people, you can issue your claim online. Log onto www.moneyclaim.gov.uk for more information.

Further help and advice

There are other leaflets in this series which are designed to help you if you do decide to issue a claim. However, they can only give you a general idea of what is likely to happen. They cannot explain everything about court rules, costs and procedures, which may affect different types of claim in different ways.

Court staff can advise you on court procedures, give you the forms you need and help you fill them in. **But they cannot give you legal advice.** For example, they cannot tell you if you have a good claim or who you should be claiming from. You may be able to get free legal advice from a law centre. A Citizens Advice Bureau or consumer advice centre may also be able to help. They will also be able to tell you if you are entitled to receive legal aid.

If you decide to go ahead and start a claim, read the leaflet **EX302 - How to make a claim?**. Copies are available from any county court, or from our website www.hmcourts-service.gov.uk. The address and telephone number of your local county court are in the phone book under **Courts** or on our website.

What additional help is available for court users with a disability?

If you have a disability which makes going to court or communicating difficult, please contact the Customer Service Officer of the court concerned who may be able to help you. If the Customer Service Officer of the court cannot help you, you can contact the Disability Helpline on 0800 358 3506 between 9am and 5pm Monday to Friday. Calls to this number are free. If you are deaf or hard of hearing, you can use the Minicom service on 0800 212 368.